

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JACK STEPHEN PURSLEY,

Defendant.

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Cause No. 4:18-cr-575

PURSLEY’S MOTION FOR NEW TRIAL UNDER RULE 33

COMES NOW Defendant Jack Stephen Pursley (“Pursley”) and moves this Court for a new trial under FED. R. CRIM. P. 33.

LEGAL FRAMEWORK

FED. R. CRIM. P. 33 reads, in pertinent part: (a) **Defendant’s Motion**. Upon defendant’s motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires. In this case, the interest of justice requires vacatur of the judgment.

ARGUMENT

Insufficient Evidence

The interest of justice requires a new trial as the evidence against Pursley was legally insufficient. Specifically, as to Counts One through Four, no rational juror could find sufficient evidence of any or all elements of the charged offenses (to specifically include the statutorily prescribed *mens rea*) beyond a reasonable doubt.

Excluded Evidence

The interest of justice further requires a new trial because key evidence for Pursley was excluded. Specifically, for the reasons set forth in the proffer as to Dr. H. Stephen Grace (*see* Dkt. No. 192, which is incorporated herein by reference for all purposes), Pursley should have been able to fairly present Dr. Grace to contextualize the evidence the jury heard as to the business issues and conduct involved in the alleged criminal activity.

CONCLUSION

This Court should enter an order granting a new trial pursuant to Rule 33, Federal Rules of Criminal Procedure, as requested above.

Respectfully submitted,

/s/ Victor D. Vital

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CERTIFICATE OF SERVICE

I certify that on September 20, 2019, a copy of this document was served on all counsel of record through filing on the ECF System.

/s/ Victor D. Vital

Victor D. Vital